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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,098	12/31/2003	Harpal Mann	134158	1335
35114 7590 08/21/2008 ALCATEL LUCENT (FKA ALCATEL INTERNETWORKING, INC.) INTELLECTUAL PROPERTY & STANDARDS 3400 W. PLANO PARKWAY, MS LEGL2 PLANO, TX 75075			EXAMINER NGO, NGUYEN HOANG	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 08/21/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/751,098

**Applicant(s)**

MANN ET AL.

**Examiner**

NGUYEN NGO

**Art Unit**

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This communication is in response to the RCE of 6/11/2008. All changes made to the Claims have been entered. Accordingly, Claims 2-22 are currently pending in the application.

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the primary communication management module and secondary communication management module (of claims 2 and 12) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 2-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
4. Regarding claims 2 and 12, nowhere in the Specification is there such terms as a primary communication management module and a secondary communication module. Furthermore, the Examiner is unable to locate the teachings of "assigning, by the primary communication management module, a unique identifier to each of a plurality of stack switches. According to the specification, element identifiers are assigned via an element assignment mechanism configured to assign element numbers and that the element assignment mechanism should remain static from one reboot to another (page

Art Unit: 2616

4 lines 24-page 5 line 6 of specification) and the specification further discloses that once the primary and secondary CMMs (assuming to correlate to the communication management module as amended) have been assigned though the use of the unique identifiers, the primary CMM generates assignment messages sent to each of the other switching devices in which the messages notify each of the recipients of the primary CMM assignment (page 8 lines 10-20 of the specification). Examiner thus interprets this to notifying other switches of the management hierarchy (specifically which switch is a primary and secondary). Applicant is thus urged to specifically point out the teachings of "assigning, by the primary communication management module, a unique identifier to each of a plurality of stack switches" as amended.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 2-5, 7-18, and 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Sugihara (US 6785272), hereinafter referred to as Sugihara.

**Regarding claim 2,** Sugihara discloses a method to provide for fail-safe operation in

Art Unit: 2616

a system of stack switches (intelligent stacked switching system, abstract), the method comprising;

3. assigning a primary communication management module (master switch having management functions among the unit, col5 lines 1-11) and a secondary (slave switch with next priority) communication management module (setting the priority index of each unit, the master-slave designation will be assigned based on the priority indexes during initial boot up, col6 lines 19-25)

assigning, by the primary communication management module (master unit is responsible for creating, maintaining, and updating the controlling topology among all the unit in which the slave nodes receives and updates topology tables, receiving and maintaining the configuration data, and responding to any master unit commands, page 5 lines 5-11 and page 11 lines 30-37), a unique identifier to each of a plurality of stack switches, the identifiers specifying a management hierarchy of the respective switches (designating priority index of each unit, the master-slave designation will be assigned based on the designated priority indexes, col6 lines 19-24);

assigning one or more stack management functions to a first stack switch of the plurality of stack switches, the first stack switch being the first in the management hierarchy of the plurality of stack switches (the master unit is assigned the highest priority index among all connected switch units and the master unit is responsible for performing stacking management functions, col4 lines 31-49 and col5 lines 1-10); and

if the first stack switch is unable to execute the one or more stack management functions (being down), automatically assigning said one or more management

Art Unit: 2616

functions to a second stack switch of the plurality of stack switches, the second stack switch being the second in the management hierarchy of the plurality of stack switches (one of the units can take over as the new master unit when the current master unit is down based upon next highest priority assignment among all remaining units, col8 lines 21-34).

**Regarding claim 12**, Sugihara discloses a stack switch in a plurality of stack switches adapted to provide for fail-safe operation (redundancy purposes, col8 lines 4-45), the stack switch comprising:

- a plurality of ports comprising at least one stack port operatively coupling the stack switch to the plurality of stack switches (seen from figure 1-4); and

- a primary communication management module associated with a unique identifier (the master switch is responsible for stacking management functions and communicating with the SNMP manager in which the master switch comprises modules for various functionality (col8 lines 50-col9 lines 25) in which a master switch and thus its associated modules are designated a priority index to determine the master switch, col6 lines 19-25), said primary communication management module specifying a management hierarchy of the stack switch with respect to the plurality of stack switches (designates priority index of each unit (switches), col6 lines 19-34 and col9 lines 15-23);

- wherein the communication management module is adapted to perform one or more stack switch management functions in response to the stack switch becoming first in the management hierarchy of the plurality of stack switches (one of the units can take

Art Unit: 2616

over as the new master unit when the current master unit is down based upon next highest priority assignment among all remaining units, col8 lines 21-34).

**Regarding claim 3, 13,** Sugihara discloses the method of claim 2, wherein the stack management functions comprise synchronizing one or more databases maintained by one or more of the plurality of stack switches (master unit is responsible for creating, maintaining and updating the controlling topology among all the units, col5 lines 1-15).

**Regarding claim 4, 14, 22,** Sugihara discloses the method of claim 3, wherein the one or more databases comprise topology information for the plurality of stack switches (col5 lines 1-15).

**Regarding claim 5,** Sugihara discloses the method of claim 4, wherein the topology information comprises addresses of substantially all nodes reachable through a port of any switch of the plurality of stack switch (col5 lines 15-26).

**Regarding claim 7,** Sugihara discloses the method of claim 2, wherein the unique identifiers of the plurality of stack switches are consecutively numbered integers (col7 lines 45-60).

**Regarding claim 8,** Sugihara discloses the method of claim 2, wherein the plurality of stack switches comprise local area network (LAN) switches (col2 lines 53-57).



**Regarding claim 9**, Sugihara discloses the method of claim 2, wherein the plurality of stack switches are operatively coupled via communications links forming a full duplex ring (col1 lines 29-32 and figure 1).

**Regarding claim 10**, Sugihara discloses the method of claim 2, wherein the first stack switch is unable to execute the one or more stack management functions because of a communications link failure within the full duplex ring (master unit being down due to link failure, col8 lines 29-31).

**Regarding claim 11**, Sugihara discloses the method of claim 2, wherein the unique identifiers further serve as stack switch identifiers (col13 lines 5-30).

**Regarding claim 15**, Sugihara discloses the stack switch of claim 13, wherein said managed information is selected from the group consisting of: media access control (MAC) address tables, routing tables, resolution protocol (ARP) tables, virtual local area network (VLAN) membership tables, access control list (ACL) rules, multicast groups membership tables, link aggregation ports, or a combination thereof (col5 lines 16-27).

**Regarding claim 16**, Sugihara discloses the stack switch of claim 12, wherein the stack switch further comprises a stack manager adapted, in response to the stack switch becoming first in the management hierarchy of the plurality of stack switches, to:

discover a topology of the plurality of stack switches (topology discoveries, col5 lines 20-23); and  
generate a shortest path between each pair of stack switches of the plurality of stack switches (col11 lines59-66).

**Regarding claim 17**, Sugihara discloses the stack switch of claim 16, wherein the stack manager is further adapted, if and when the stack switch becomes first in the management hierarchy of the plurality of stack switches, to detect the insertion or removal of a stack switch of the plurality of stack switches (addition or deletion of unit in the system, col6 lines 60-67).

**Regarding claim 18**, Sugihara discloses the stack switch of claim 16, wherein the stack switch is further adapted to exchange keep-alive messages with a primary stack switch of the plurality of stack switches to determine if and when the stack switch becomes first in the management hierarchy of the plurality of stack switches (alive messages, col10 lines 4-29 and col12 lines 16-40).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 6, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugihara (US6785272), in view of Olson et al. (US 7127633), hereinafter referred to as Sugihara and Olson.

**Regarding claim 6**, Sugihara fails to specifically disclose wherein the addresses of the nodes are media access control (MAC) addresses. However MAC addresses are well known in the art and it would have been obvious to use MAC addresses in the stacked switching system of Sugihara in order to efficiently route data throughout the system with the use of MAC addresses.

**Regarding claims 19 and 21**, Sugihara fails to specifically disclose wherein the switch further comprises a chassis supervisor adapted to inform one or more of the plurality of stack switches of the management hierarchy if and when the stack switch becomes first in the management hierarchy of the plurality of stack switches and wherein an IPC protocol is employed by the chassis supervisor. Sugihara however discloses of an election process between the stack switches which is referred to as an "auto-topology" design (col6 lines 24-34), thus providing the motivation to inform the other slave units

of the outcome of the election process. Olson further discloses of the concept of having a master controller that then contacts the slave controllers to inform them of the election outcome (col28 lines 54-57). It would have thus been obvious to a person skilled in the art to incorporate some sort of chassis supervisor to inform the other units/switches of the outcome of a master election process as disclosed by Olson into the intelligent stacked switching system of Sugihara in order to efficiently determine and inform the switches of the elected master switch. It should be further obvious to use some sort of protocol (such as IPC protocol) to inform the other switches in order to correctly communicate the outcome between the switches in the system.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NGUYEN NGO whose telephone number is (571)272-8398. The examiner can normally be reached on Monday-Friday 7am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on (571)272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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